App. F. IX-4

Previous References

193 (1-32 Revenue (LB)

File No. 5 L-31

Serial Nos. 20

Later References

PRESERVED

General and Revenue Secretariat.

Serial Nos. One

Part B for Sept 1931.

SUBJECT.

Re Remission of taxes fees or Cess payable to the Sanitary Board

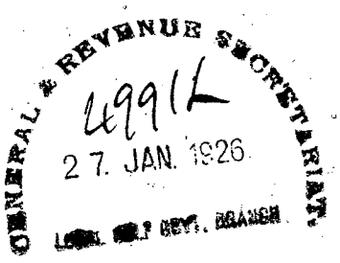
3.3.32

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Linked file



No money limit fixed

II[W] Member's minute 9 18/1/26 in L.B. 38-25-7

1) "Please note separately whether the Rs could not be given some powers for writing off small amounts. Sd/ HB. 18/1/26.

2) Sub. Under Rule 84 of the Mt. Account Manual (appears to be competent to write off amounts irrecoverable due either to the death of the tax-payer or when the defaulter has no attachable property both in the Mt. limits & his whereabouts remain unknown. Similar powers may perhaps be extended to the Sanitary Bd also if appd.

3) Attention is invited to Sections 25(1) & 26(1) where power to levy taxes is authorised the granted to this body & no power to write off arrears is mentioned

HB 27/1

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

1991/2

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Noam Cantelle
re 25 Pres 2/1/13

9) Parliament has delegated certain powers to the Dr in regard to appointments &c, though there are not provided for in the Regulations. Please further check this.

MB
22/3

10)
LB File No 130-22 Vol 1-3 refer
The subject is put up (Flag O)

Ref K 4
28/3

11) : Under Reg 35 (2)(b) of the Mines Regulations, the Board is given power to levy with the sanction of the Dr such rate or rates within the said area as a Municipal Council would be competent to levy under the Law in force relating to Municipalities. But no power to remit is given as is given in the Municipal Regulations under Reg 46 of the Municipal Regs clause (c), the Municipality may make rules regarding the Conditions on which the ratepayers to which remissions may be granted are ~~to be determined~~ The Dr may not legally remit any rate. The sanction of the Dr as at present stands

12) The matter
Mr Smith [illegible]

May perhaps be forwarded.

L.H.Abbey

There seems to be no need to change the existing practice. It may not be desirable to encourage the power of remission becoming habitual and to sanction of Govt submitted with reference to 2nd minute

Govt can sanction remission of taxes, fees &c payable to the Revenue Dept

Sub: Specific orders of Govt on the point are not available - The authority that has the power to sanction the levy of a tax has, it appears, the power to remit or withdraw it. The power to sanction

B.— Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

G.R.S. III—3]

4991

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

---

the levy of a tax by the Bd. is reserved
to govt. Vide Sect 35(2)(b) of
the Mysore Mines Reg[n].

Cal 16/ There does not seem
23/4 to be any provision
in the mining Regln
empowering the govt
to order writes off
nothing mentioned
in cl(a) or (1)(3) Sect
35 of the Regln seems
to cover the ground
in question. The
Regln has perhaps
to be suitably amended
if necessary Law
Dept may be consulted
to say whether
"write off" can be
brought under any
of the existing
provisions of the
Regln

CR
30.4.26

V.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

17) To Govt. for (Law Dept.)
for favour of opinion

CR
3.5.26

24/4/26
D.L. Secy

3887

G.R.S. III.—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

But in this case the rule, order or Bye Law is not intended to be rescinded. ~~The~~ It is ~~expected~~ intended to be kept in force but a particular levy or tax made is intended not to be enforced or in other words, the tax due is to be written off. Please also examine sheet when a levy is made under statutory authority, the power to remit also should be ~~for~~ or should not be provided for by the Statute

25/8/13.

My Power to remit is specially provided for in the Sl. comp & Court Fees Regns. (vide S. 9 of the Sl. comps Regn. and

Dr Jonapall 1913.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Serial No.

(3) The question is:- Under what authority can Government sanction remission of taxes, fees or cess payable to the Sanitary Board?

(4) Under Section 35 (2) (b) of the Mysore Mines Regulation, the Sanitary Board may be invested wit power to levy with the sanction of Government, suc tax, rate or cess within the area of the Sanitary Board as a Municipal Council would be competent to levy under the law in force relating to Munici- palities. This section therefore enables Govern- ment to invest the Sanitary Board with the power to levy taxes etc. The kinds of taxes which the Sanitary Board may levy are those which a Municipal Counci may levy under the Municipal Regulation. The refe rence to the Municipal Regulation in this Section is only to indicate the kinds of taxes that may b levied and to nothing more.

(5) Under the Municipal Regulation, section 46 clause (j) the Municipal Council may frame a rule prescribing the conditions subject to which sums due on account of any tax or of costs in recoverin any tax may be written off as irrecoverable and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the Managing Committee.

(6) There is no provision corresponding to this section in the Mysore Mines Regulation investing either Government or the Sanitary Board to write off taxes, etc.

WD 01229—GPB—37,500—1-9-26

Serial No.

27) *Under clause (i) of section 46 of the Municipa
Regulation, power to remit, to exempt, and to re-
fund in respect of taxes is given.

28) ~~Such~~ Similar provisions are found in the Stamp Regu-
lation Section 9, Chapter V; and in the Court Fees
Regulation, Sections 10, 11 and 12 and section 42.

Government have delegated powers of Remissions
of Land Revenue etc
up to Rs.100/- to the Deputy Commissioners of Dis-
tricts under the Government order of 1922. There
seems to be no express provision in the Land Reve
nue Code empowering Government to remit Land Reve
or to delegate the power to the Deputy Commissi
if they have such power. But section 233 (n) ma
perhaps enable Government to frame rules for del
gating such powers of remission.

29) The provisions in the Regulations stated abo
show that when under a Statute power to levy a t
is given, then unless the Statute confers power
to remit or write off, such power may not perhap
be exercised.

30) In a case, however, where a tax is levied
without statutory authority, Government may per-
haps remit or cancel the tax, as in the case where
Mohatarfa was levied under the executive autho
of Government, Government may remit or cancel t
tax.

31) Section 21 of the General Clauses Act does
not apply to this question. Under that section

3881

WD 01229—GPB

A

nd Revenue Secretariat | File No. | of

Serial No.

the rule, bye-law or order under which a tax is levied may be modified or rescinded, but a tax levied cannot be remitted or written off.

Reg L.D 28/3

32) After anxious consideration I have come to the conclusion though not without hesitation, that the Sanitary Board has no power to remit or write off taxes levied

33) The question whether Govt have power to sanction remission or to write off taxes, cess etc. is not free from doubt.

34) Under section 35 of the Amended Regn Govt is empowered to constitute a Sanitary Board, & that Board is vested with power to levy taxes with the sanction of Govt.

35) The implication is that Govt which has an inherent right to levy taxes, may delegate its powers to the Sanitary Board.

36) The Legislature may be presumed not to have divested the right of Govt to remit taxes. Under Comm law a creditor possesses the power to remit the debt

37) In this view of the case Govt stands in the position of a creditor power to remit crown debts, to wit, Hence Govt can remit taxes levied by Board. Submitted with reft to the

38) I think nothing stands in the way of a rule being framed granting the power to remit taxes, on lines similar to the provision in the Amended Regn. I think such a rule will be covered by Sec 35 of the Regn.

39) Please bring it

OFFICE OF THE
THIRD MEMBER OF COUNCIL
8 APR. 1927
No. 1765

heet

3881926
4991

App. F. III—2]

General and Revenue Secretariat.

File No of 192

Serial No.

40) After careful consideration, I feel a doubt whether a rule can be framed in exercise of the power to levy a tax vested in Govt under Sec 35, to give power to the Sanitary Board to remit any tax levied by it.

41) Power to levy a tax may not include a power to remit a tax

42) Moreover it is an accepted principle of law that a power which is vested in Govt by the Legislature cannot be delegated to any subordinate officer or any Board constituted by law.

43) This principle was acted upon by Govt in the case of power delegated by Govt to Chief Court to transfer Munsiffs if such delegation was cancelled after a thorough examination of the authorities bearing on the subject

44) There is a Privy Council ruling to this effect.

45) In this view of the case I feel a doubt whether any rule empowering the Board to remit taxes will not be ultra vires.

46) Submitted with reference to the remarks/observations of the member in the margin supra

47) Thanks.

48) The only course is to amend sec 35 of the Regn by including a power to remit in certain cases somewhat on the lines of sec 46(3) of the Regn.

1302 11/8

578/27 Govt

1st member

OFFICE OF THE THIRD MEMBER OF COUNCIL. 4-AUG. 1927 No. 937

8/8 578. 6/8

2nd member

3rd member

NOTE—Contn. sheet.

P.S.G. Branch

49) Please put up

12/8 13/8 13/8

WD 6324—GPB—60,000—24-5-27

8/8 1-8 2/8 1-8

F. III—2]

App.

General and Revenue Secretariat.

File No. of 192 .

3881/27

855 L

27. AUG. 1927

LOCAL SELF GOVT. DEPARTMENT

Serial No.

50) Ruled personally to an Imendt the Govt. that if none was no objection, Sec 85 of the Regn may be amended as suggested by the 3rd Imendt

26/8

51) May this be sent to the L&G Pr for further actn

26/8

L&G Pr

26/8

52) Ruled with a draft amendment together with a Statt of objects & reasons for Consideration.

Govt 29/8/27

53) Have any rules been passed authorising the levy of certain taxes? Please point up. Govt No 119.

54) Sub-Sec 35(2)(b) of the Mines Regn states that the power to levy a tax may be vested in the Govt By. This does not perhaps permit delegation of power

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

12/6/31 P 4991

App. F. III—2]

General and Revenue Secretariat. File No. of 192

Serial No.

to remit tax -

G.O. No 28[27]/to3335-11-3 & 4. 10.12 Vests in the Bd the power to levy a tax on dogs.

By-laws framed

P 5) Reference is also invited to G.O. No 102[3] Mis. 132-08 dt 8/4.5-1910 where it has been acknowledged that the Sanit. Bd have not been specially empowered to frame Bylaws for the management of Markets & Slaughter Houses & that therefore "Rules have been framed & issued by GM. under the Regs."

6) The Legal Remembrancer in his notes dt 1.8.26 [has stated] that a power vested in Govt by the Legislature cannot be delegated to any subordinate offic or any Bd constituted by Law -

5) The amendment has [been proposed] therefore to be proceeded

Legal 15/9

GEN. & REV. SECTT. L 1300 12 SEPT. 1931 L. S. G. BRANCH.

The question has been ordered to be dropped for the present - Hence the reference files are herewith returned to the L.S.G Branch.

10/9/31

P 22/9

GEN. & REV. SECTT. 9 OCT. 1931 d. BRANCH.

These papers with, if any, the file

22/9

27/9/31

NOTE—Contn. sheet.

G.R.S. III—31

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Reference is made in the
Note to Art 84 of the Land
Rent Manual giving power to
Land Courts to remit and write
off certain classes of rents. It is suggested
that similar provisions may
be framed for remissions &
writing off of rents in Land
Court area as well. The provisions
in the Land Rent Manual
are made under Sect 40 Clause
(i) of the Land Clauses Act
which has been legislated
in virtue of power contained
in Subsection (2)(b) of Sect 35 of
the Mines Regs. This Regulation
does not contain a provision
to enable the Board to frame
rules for remission of rents
as in the case of Land Regs.
The proposal for remission
have therefore to come up for
first sanction

It is doubtful if the Board
can even delegate their powers
to the Board of Trade as they
have done in regard to remission
of arrears of land revenue
The power in the latter case
based on an executive order
but the President of India
is an officer appointed by

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form

3881/26.
P
4467/25
P

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Put up

Subd Sec. 35(2)(c) of the Mines Regn. States that the power to levy taxes may be vested in the Sanr Bd.

Flag Y

Y G.O. No 2827/Lds 385-11-38 4/10/2 Vests in the Sanr Bd. the power to levy a tax on clogs.

Flag P

3) Reference is also invited to Go. No 1023/63/Lds 132-08-15 & 14.5.1910 Where it has been acknowledged that the Sanr Bd. have not been specially empowered to frame Byelaws for the management of markets & slaughter Houses & that therefore "Rules have been framed & issued by Govt. under the Regn.

Sd
24/2

Do submit Rules in connection with

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Subd
24/2

Draft Amendment to Section 35 (2)
of the Mines Regulation.

---

35 (2) (c) :-

" Power to write off as irrecoverale subject to such conditions as Government may prescribe sums due on account of any tax or of costs in recovering any tax or any fees chargeable for distress."

Statement of objects and reasons.

Section 35 (2) (b) of the Mysore Mines Regulation enables Government to invest the Kolar Gold Fields Sanitary Board with power to levy taxes, rates or cesses within its area but contains no provision for empowering the Board to write off sums due on account of any such taxes as irrecoverable. The amendment is intended to ~~give~~ enable Government to give the necessary power to the Sanit Bd

MW 22/4 General Secretary

REPLY

(To be written on this margin.)

GENERAL & REVENUE
1347
22 SEP. 1927
LEGAL SELF GOVT. BRANCH

OFFICE OF THE SECOND MEMBER OF COUNCIL

NOTE.

Dated 17th September *192*.

M. 121.

OFFICE OF THE THIRD MEMBER OF COUNCIL
17 SEP. 1927
No. 2353

I find that the improvement of the law relating to mines will probably have to take the form of a consolidating -- measure and not a simple amending Regulation. Besides, it will be necessary to consult the Board of Industries & Commerce, the Chief Inspector of Mines, and, the Director of Geology in regard to the modifications to be made in the existing law. It is not, therefore, possible to place before the ensuing session of the Representative Assembly the principles of the modifications in the Mines Regulation of 1906 which I have in view. I would, therefore, request that the single amendment which the Third Member proposes to make in the present Regulation may be proceeded with, leaving the general revision to be taken up in due course by me.

Third Member with compliments.

(17.9.27)

Asst Secy
Please take
action & see.
17/9/27

This is ascertained to be pending in the LSG Br.
19-9-27

Asst Secy
with compliments

Branch Please put up the file with receipt which I received today
19/9

I submit the file in person to the Hon'ble Second Member

Please put up the refee I wanted the main file. The Hon'ble Member is pleased to direct that in order to remove some practical inconvenience in relation to amendment the amendment of the Act may be dealt

13672 1919-27

G.R.S. III—3]

Routine Notes

[To be used only for notes, requisitions, etc., not intended for permanent record.]

the others under consideration in the Mines dept. (to be sent to 3rd Member for information) the Second Member had no objection as this.

Ordered

OFFICE OF THE THIRD MEMBER OF COUNCIL. 23 SEP. 1927 No. 2636

The file seems to have been sent to the 3rd member by mistake. The original draft not marked. The personal assistant brought it back with instructions that the Member had no objection to the course proposed and that a minute to that effect should be recorded when the Second Member was on leave. The Second Member does not wish now to be taken.

Branch Note and send on file with the draft amendment typed to the Rose Formerly

Please type the draft amendment marked draft for approval

Typed & sent 13/10

Typed & sent 13/10/27

Sent 14/10

Sent 14/10

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

To the Protection Branch with compliments — Typed Copy of the draft amendment to the Mines Regs 5 for typing

G.R.S. III—3]

Routine Notes.

[To be used only for notes (publishing etc., not intended for permanent record.]

[illegible] for this March 5th.

The amendments required to be considered along with the previous amendments already under consideration. They are now being sent.

The amendment proposed has not been allowed by the Courts file may be removed to the P.S.I. Branch

Subd
Draw
18/10/27
Draw 18/10

Please perhaps a Copy of the memo only. re: legislative measures

18/10

Corr No 2310-7 & B 165-25-1 dated 26-2-1926
Have it herewith put up & Subd

Draw
19/10
Draw 21/10

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

General and Revenue Secretariat. | File No. of 192

Serial No.

Kind reference is invited to our o.m. put up. The steps indicated therein should be taken before Legislature dept can take action

L&S) 21/10

mr. m.A.R 21/10

Subd. The proposed amendment has to be appd. by the member

There appears to be no need to take up this amendment individually & it may perhaps be taken up with the other amendments under contemplation in the Mines dept.

If appd. the file will be sent to the Development dept for ~~taking action~~ after appl. of the draft amendment by the member.

Please peruse 26/10/19

The necessity for the amendment has been indicated by the 1st member. A preliminary draft amendment has been put up by the Administrative dept.

Vide Para 50 of the note in the margin

"Consideration of the question of the Cl. 2 appl. of H.H. thereto had to be obtained before the question is transferred to the Legislative dept. These may perhaps be done when the other amendments to the Rep. are taken up & considered.

NOTE—Contn. sheet

Laid before the Committee 29/10

Laid on the table 29/10 and what steps the other amendments are in

WD 0324—GPB—60,000—24-5-20

1919 [illegible]

13:67

App F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

Subd from personal enquiry made today it is ascertained that the Development Secty has no papers dealing with the proposal amendment of the Mines Regns.

The Protection Branch has under consideration the question of amending Sec 17 of the Mines Regns. There are no files in the Second Members Estt ~~have~~ dealing with the question ~~at present~~ so far as whether the proposed amendment to Sec 35 of the Regns ~~should~~ be pursued alone ~~independently~~ is for orders.

Sd
15/11

Asstt Secy Protn Branch for favour of stating ~~what~~ what stage the proposals for the amendment of the mines Regns are and whether the amendment in the present file can be taken up with the other amendments.

MD
17/11

A:

28
16/11

Subd. There is only one amendment dealt with in this Branch viz that relates to Sec 17 of the Regns. Fair draft of the Bill & the Statt of O & R were sent to the Asst Secy today

Sd
16/11

A: yes. after it is approved in Council.

28
18/11

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

DSG 2/11

1915-4 [illegible]

App. F. III—21

General and Revenue Secretariat | File No. | of 192

Serial No.

Approval is solicited to the draft of the Amendment of Sec 35 of the Income Regulations placed below empowering the Taxation Board to write off irrecoverable taxes &c. It will then be sent on to the Protection Branch for further action.

24/11

Inc 24/11

First Member

Submitted 2nd Inc

Second Member

Inc 23/11 23/11

Inc 24.11.27

RR 24/11

For favour of further action

Legislative Branch

Inc 24/11

25/11

OFFICE OF THE SECRETARY TO THE MEMBER OF COUNCIL
25 NOV. 1927
No. 2868

Subd. Under rule (6) of GOI no 2310-7 of 26-2-26, this approval has first to be obtained to the proposed Regulations in the Administrative Branch.

The idea is to incorporate this clause in the same bill & to submit the Bill to the H. A. So please incorporate this clause.

25/11

25/11

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

Legislative

General and Revenue Secretariat.

File No. of 192

Serial No.

In receipt of the file Re Amendment of S. 14 of the Mines Regn will be awaited. Sibd

Mines Regn Amend Ferv 25/11

Mines Regn Amend Rules

Queries Interviewed back. Memo to be submitted 5/12

The file has been returned & the Draft there has not yet come into a settled form. At the time of final draft both will be clubbed

Sibd 26/12

Submitted for 1/12

Sibd B 5/12/12

Sibd 26/4

Approved 26/4

Sibd 25 27/4

NOTE—Contn. sheet.

WD 0324 -GPB-60,000—24-5-27.